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10 JAN 2007

COGNIS CORPORATION
PATENT DEPARTMENT
300 BROOKSIDE AVENUE
AMBLER, PA 19002

In re Application of MOSER et al :
U.S. Application No.: 10/557,748 :
PCT Application No.: PCT/EP2004/004963 :
Int. Filing Date: 10 May 2004 :
Priority Date Claimed: 16 May 2003 : DECISION
Attorney Docket No.: C 2791 PCT/US :
For: COSMETIC AND/OR DERMATOLOGICAL :
PREPARATIONS CONTAINING AN :
EXTRACT FROM THE SEEDS OF PLANTS :
OF THE GENUS ADENANTHERA :

This is in response to applicant's "Petition Under 37 C.F.R. §1.137(b) to Revive Unintentionally Abandoned International Application Designating the U.S." filed 18 November 2005.

BACKGROUND

On 10 May 2004, applicant filed international application PCT/EP2004/004963, which claimed priority of an earlier France application filed 16 May 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 25 November 2004. The thirty-month period for paying the basic national fee in the United States expired on 16 November 2005.

International application PCT/EP2004/004963 became abandoned as to the United States for failure to timely pay the basic national fee.

On 18 November 2005, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless

previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), the petition states that "the entire delay in filing the required submission under 35 U.S.C. §371 was unintentional." This statement is interpreted as a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 10 May 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 18 November 2005.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.

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